



FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) FEDERAL INSURANCE MITIGATION ADMINISTRATION (FIMA) APPEAL DECISION

FEMA Flood Insurance Appeal Decision #C6

SUMMARY

The policyholder appeals their flood insurance carrier’s (hereinafter “insurer”) partial denial of their claim under the Standard Flood Insurance Policy (SFIP)¹ for damages to insured property arising on September 2020.

The policyholder files this appeal under 44 C.F.R. § 62.20. The appeals process is available after the insurer issues a written denial, in whole or in part, of the policyholder’s claim.²

After reviewing the issues, evidence, and relevant authorities, FEMA overturns the insurer’s decision.

BACKGROUND

COVERAGE

The policyholder insures property under the SFIP Dwelling Form. At the time of loss, the policyholder had \$250,000 of building coverage and \$85,600 of personal property coverage.

EVENT AND CLAIM FACTS

Heavy rains in the area caused local rivers, streams, and streets to overflow, producing a general and temporary condition of flooding in the area.

The policyholder notified the insurer of the flood loss and the insurer assigned an adjuster to inspect the property. On September 2020, the adjuster inspected the property and confirmed a general and temporary condition of flooding existed. The adjuster documented a 56-inch water line on the exterior of the dwelling and a 48-inch water line on the interior of the ground-level enclosure. Floodwaters did not reach the floor of the main living area.

¹ See 44 C.F.R. § 61.13 (2019); Dwelling Form available at 44 C.F.R. pt. 61 App. A(1) [hereinafter “SFIP”].

² The policyholder’s appeal and related documents concerning the appeal, claim, or policy are on file with FEMA, Federal Insurance and Mitigation Administration, Federal Insurance Directorate, Policyholder Services Division, Appeals Branch [hereinafter “Appeal File”].

The insured dwelling is an elevated post-FIRM (Flood Insurance Rate Map) building, located in special flood hazard area, zone AE.³

The adjuster applied elevated post-FIRM building coverage limitations and allowed for removal and replacement of electric outlets, junction boxes, water heater, and front entry staircase.

The insurer agreed with the adjuster's estimate and issued the policyholder payments totaling \$9,825.68 for insured building property and \$374.53 for insured personal property. In a letter dated October 2020, the insurer denied coverage for damages to finished building items on the ground-level enclosure and the stucco-finished pony wall of the front entry staircase citing elevated post-FIRM building coverage limitations.

The policyholder appeals the insurer's denial to FEMA. The policyholder contends the pony wall serves as a protective support and handrails for the front entry staircase. In support of their appeal, the policyholder provides photographs of the pony wall, an invoice for removal of the damaged pony wall, and a contractor's estimate for its repair.

ISSUE

The policyholder appeals the denial of coverage for the stucco-finished pony wall.

RULES

The SFIP provides limited coverage to stairways and staircases attached to the insured building located below the lowest elevated floor of an elevated post-FIRM building in special flood hazard area, zone AE.⁴

ANALYSIS

The policyholder appeals the denial of the staircase pony wall insured property.

The SFIP provides limited coverage to stairways and staircases attached to the insured building located below the lowest elevated floor of an elevated post-FIRM building in special flood hazard area, zone AE. The SFIP insures the egress in and out of the insured building. The SFIP also insures stairways and staircases attached to the building, not separated from it by elevated walkways, necessary for egress in and out of the insured building. Coverage for insured stairways and staircases is limited to a single set of stairs and one landing (a maximum of 16 square feet), along with support posts, handrails, and hardware, for each existing egress.⁵ Here, FEMA's review finds the pony walls are structural walls that physically serve the functional equivalent as support posts, handrails, and guardrails found on typical staircase balustrade systems. Therefore, FEMA's review finds the pony walls are insured property for egress in and out of the building and are eligible for coverage. Accordingly, the cleanup cost associated with the

³ For more information about flood zones, please see www.fema.gov/flood-zones.

⁴ See SFIP (III)(A)(8)(a)(12).

⁵ See National Flood Insurance Program Claims Manual (May 1, 2020).

removal of the flood-damaged pony wall that floated onto a neighbor's yard is also eligible for reimbursement. However, because the pony wall that was damaged by flood is below the lowest elevated floor of an elevated post-FIRM building in a special flood hazard area, coverage limitations apply. As such, FEMA's review finds the stucco and paint finishes on the pony wall are not insured property and are ineligible for coverage.

For these reasons, FEMA's review finds the insurer improperly applied the SFIP to the policyholder's claim.

CONCLUSION

FEMA directs the insurer to provide coverage for the cost to repair the flood-damaged pony wall, including the associated cleanup costs for the removal of the flood-damaged pony wall that floated onto a neighbor's yard.

The policyholder should cooperate with the insurer through this process and provide them with any information they need to equitably resolve the claim. The adjustment to the claim remains under the direction of the insurer based on the merits of their findings, in accordance with all terms and conditions of the SFIP.